

REMARKS

This replies to the final Office Action as mailed on February 5, 2002. A Request for Continued Examination (RCE), a Terminal Disclaimer, and a Petition to Extend Time for Response to Within the First Extended Month accompany this reply. Reconsideration and reexamination are requested in view of the foregoing amendments and the following remarks.

Claims 1-6 and 8-21 were pending in this application. By way of the present Amendment, Applicants have canceled claims 1-6 and amended claims 8, 12-14, and 16. New claims 22-27 are added to more particularly point out and distinctly claim Applicants' invention.

Claim Amendments

Claims 8, 12-14 and 16 are amended to recite that the dispensing appliance includes a "coupling" ring rather than a "locking" ring, and to clarify that the mixer detaches and connects to the dispensing appliance. These clarifications are not believed to further limit the scope of the original claims.

Independent claim 8 is also amended to recite that the "coding elements" comprise "outlets of a different configuration relative to each other" and that the inlets of the mixer are "configured to conform thereto," i.e., to conform to the outlets. Independent claim 14 is amended to recited that each plug is configured "to align with and connect to each said outlet of said plurality of chambers in only one direction." These changes are intended to more closely track the language of the allowed claims of the parent application.

New claim 22 recites visual alignment means as previously recited in canceled claim 5. New claims 23-26 recite additional means for preventing contact between a closure and a dispensing appliance. Newly added claims 23-26 are supported by, for example, the description set forth at page 15 and at page 8, lines 26-30.

New claim 27 is drawn to a closure per se, and recites features corresponding to those of the closure member set forth in independent claim 14.

Double Patent Rejection

Claims 1, 3-6, 8-10, 12-14 and 16-21 were rejected under the judicially created doctrine of obviousness type double patenting, in view of commonly owned U.S. Patent No. 6,186,363 (which issued from the parent of the present divisional application) in view of U.S. Patent No. 5,137,182. Without acquiescing to the

propriety of this rejection, Applicants have submitted an appropriate Terminal Disclaimer to obviate this ground of rejection and facilitate allowance.

Rejection Under 35 U.S.C. §§ 102(b) and 103(a)

The Office Action rejects claims 1, 3-6, and 19 under 35 U.S.C. § 102(b) as allegedly being anticipated by Keller, U.S. Patent No. 5,137,182 ("the Keller '182 patent"). Claims 8-10, 12-14 and 16-21 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Keller '182 patent. These rejections are traversed as follows.

Regarding claims 1 and 4-6, the Office Action relies on the indication in the Keller '182 patent that "Depending on whether the components are to be applied in the proportion 1:1 or some other proportion, the cylinders 2, the dispensing canals 4, and the cross-sections of the matching stoppers 14 may be identical or different." (Col. 3, ll. 11-15.) Based on this teaching, the Office Action concludes that "the coding elements for coded introduction being dissimilarly sized, shaped and visually different inherently follow."

In reply, it is noted that the Keller '182 patent contains no teaching or suggestion to utilize different outlets on a dispensing appliance or plugs on a closure member for coded alignment and introduction of the closure member into the dispensing appliance as set forth in claim 1. The reference in the Keller '182 patent to stoppers 14 of different cross-section clearly follows from the acknowledgment that different volumes of containers may require dispensing canals 4 to have different cross-sections. There is no indication or suggestion to utilize differently sized or shaped plugs as coding elements, and such use may be regarded as inherent only if one were to speculate in hindsight as to whether stoppers 14 of different cross-sections would be sufficiently different to serve as coding elements to permit alignment and connection in only one orientation as recited in claim 1.

The obviousness rejection of claims 8-10, 12-14 and 16-18 is traversed for the reasons set forth above regarding claim 1.

Further regarding the rejection under § 103, Applicants respectfully traverse the Examiner's statement taking administrative notice that "dual cartridge containers as disclosed by [the Keller '182 patent] are customarily associated with related mixers as claimed in order to mix and dispense the material therein." In response, Applicants agree that the Keller '182 patent generally indicates that the cartridge described therein

may be used with a mixer. Indeed, the reference explicitly states that "When the contents of the cartridge are being squeezed out through the dispensing canals 4 with the closure 20 removed, such a bayonet mount 7 is widely used to hold a dispensing nozzle, such as the tube of a static mixer that forms an extension to the nozzle tube 3." (Col. 3, ll. 40-45.) However, there is no disclosure or suggestion of a cartridge used with a mixer "as claimed" as stated by the Examiner. For example, there is no disclosure or suggestion of such combination as claimed that includes complementary coding elements formed on said dispensing appliance and said mixer to permit said inlets of said mixer to be aligned with and connected to the respective outlets of said dispensing appliance in only one orientation. Accordingly, to the extent that the Examiner intends to establish by administrative notice any characteristic of the mixer recited in the claims beyond what is specifically disclosed in the Keller '182 patent, the Examiner is respectfully requested to provide evidence for such position.

Finally, it is respectfully noted that pending independent claims 8 and 14, particularly as amended, correspond to claims allowed in the parent '363 patent, except the present claims also recite a closure member having plugs corresponding to the outlets of the dispensing appliance/cartridge. As the Office explicitly determined that the claims of the '363 were patentable over the Keller '182 patent (which was considered and made of record in connection with the prosecution of the '363 patent), it follows that the present claims are also allowable over that reference.

Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Prompt and favorable consideration of this application in light of this Reply and Amendment is earnestly solicited.

If the Examiner has any comments or suggestions for improving the form of this application, the Examiner is invited to telephone the undersigned attorney at the number below.

Respectfully submitted,

Date

8/9/02

By

George C. Beck

FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5109
Telephone: (202) 945-6014
Facsimile: (202) 672-5399

George C. Beck
Attorney for Applicant
Registration No. 38,072

Version with Markings to Show Changes Mad

IN THE CLAIMS:

8. (Thrice Amended) dispensing assembly, comprising:
a dispensing appliance including a plurality of chambers each having an outlet and a first bayonet coupling;
a mixer including a housing with a plurality of inlets corresponding in number to the outlets, each inlet being configured to engage a respective one of said outlets, a mixer element disposed in said housing, and a second bayonet coupling complementary with said first bayonet coupling of said dispensing appliance, said first bayonet coupling being detachable from said second bayonet coupling and together forming a detachable bayonet assembly;
a detachable closure member for closing said dispensing appliance when said mixer is detached from the [mixer] dispensing appliance, said closure member having a plurality of plugs corresponding in number to the outlets for closing each of said outlets; and
complementary coding elements formed on said dispensing appliance and said mixer to permit said inlets of said mixer to be aligned with and connected to the respective outlets of said dispensing appliance in only one orientation said coding elements comprising outlets of a different configuration relative to each other and said inlets being configured to conform thereto;
wherein said closure member includes coding elements configured in the same manner as the mixer to connect with the dispensing appliance in only one orientation.

12. (Thrice Amended) A dispensing assembly according to claim 8, [wherein said coding element comprises] further comprising visual alignment means provided on said dispensing appliance.

13. (Twice Amended) A dispensing assembly according to claim 8, further comprising a [locking] coupling ring for attachment of said closure member to said dispensing appliance.

14. (Twice Amended) A dispensing appliance for a mixer, the mixer having a plurality of inlets, the dispensing appliance comprising:

a plurality of chambers each having an outlet for engagement with the inlets of the mixer, each said outlet of said chambers being of a different configuration from each other to permit [each said outlet to be aligned and connected to] the respective inlets of the mixer to align with and connect to said outlets in only one orientation; and

a bayonet coupling on said dispensing appliance for detachably connecting [said dispensing appliance to] the mixer to said dispensing appliance; and

a detachable closure member for closing said dispensing appliance when detached from the mixer, said closure member having a plug for closing each said outlet, each said plug being configured to align with and connect to each said outlet of said plurality of chambers in only one orientation.

16. (Twice Amended) A dispensing appliance according to claim 14, further comprising a [locking] coupling ring for attachment of said closure member to said dispensing appliance.